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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/762,649	01/21/2004	Joon Park	151-14	5296
30367	7590	04/05/2007		
ALLEN A. DICKE, JR. 224 MALL WAY ANAHEIM, CA 92804			EXAMINER DEMILLE, DANTON D	
			ART UNIT	PAPER NUMBER
			3771	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/05/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding,**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

## Office Action Summary

Application No.

10/762,649

Applicant(s)

PARK, JOON

Examiner

Danton DeMille

Art Unit

3771

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-36 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-36 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____                                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date ____   | 6) <input type="checkbox"/> Other: ____                           |

**DETAILED ACTION*****Drawings***

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the linear motor, rotary motor with a belt, rotary motor with a reversing mechanism and a smooth shaft, the secondary support surface is extendable so as to accommodate different thigh lengths, a pair of armrests, an auxiliary appliance, table, handle or guard, a self-centering structure for first and second pads, an inflatable pad, an actuator to treat abnormal spinal conditions, a swivel mechanism with two-axes pivots, a set of concave/convex spheres, a ball and socket, a spring disposed between said module and said saddle, an actuator that is an air spring and an electric motor, a third heat-transmitter disposed centrally between said first and second heat transmitters, a third heat-transmitter that is spring loaded, an auxiliary device that is an ion generator and a belt module disposed on said support surface must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the

renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 112***

Claim 8 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

There is no clear antecedent basis for "said support surface" in lines 8-9 because there was a first and second support surface previously recited.

It is not clear what structural limitation disclosed in the movable pillow is intended to comprehend the claimed "enables the activation of said heat-transmitters only onto a user's spinal areas." What structure of the pillow provides this activation feature?

Claim 8 recites that the second support surface supports the thighs and feet of the human being. It is not clear where there is support in the specification for the second support surface to support both the feet and thighs. As understood it only supports the thighs as shown in figure 2.

Claim 9 adds a third support surface to rest the feet. However, claim 8 recited the second support rested the feet. Which is it? How can it do both?

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 1, 2, 4, 5, 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over**

**Lee '732 in view of Otuka et al.**

Lee teaches a slot in a support surface having at least one heat-transmitter "MEDICATOR" mounted in the slot to reciprocate in said slot. Lee appears silent with regard to how one is to control the motion of the device. Otuka teaches a support surface that includes a massager reciprocating within a slot in the support surface and teaches a controller that controls the motion of the device. The device includes a plurality of switches "WHOLE", "NECK-SHOULDER" and "WAIST" in which the device stops and reverses the massager between at least a first position and a second position during its programmed path of movement. Each switch has a relationship to the first position and the second position during its motion such as the uppermost position "a" and the lower most position "b". The uppermost position "a" is determined by the height adjustment switch 83 that determines the maximum height dependent on the size of each user. Therefore the uppermost position in the "WHOLE" switch is adjustable and therefore the "WHOLE" switch is adjustable because the uppermost position changes with a change in the height of the user.

Therefore, it would have been obvious to one of ordinary skill in the art to modify Lee to program the motion of the massager to include a plurality of switches as taught by Otuka so that the massager moves in a pattern to massage the "WHOLE" body, the "NECK-SHOULDER" portion of the body or the "WAIST" including the height adjustment switch to be able to accommodate different sized users.

Regarding claim 2, Lee would teach a pad or pillow for supporting the head of the user and this upper head pillow portion would have a position relationship with the uppermost position of the height adjustment switch that reverses the movement in relationship to the pillow position.

Regarding claim 6, Lee teaches a plate 400 disposed adjoining the heat-transmitter that is lower than the support surface so as to fill the space from side to side in the slot.

**Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 1 above, and further in view of Splane, JR.**

Splane teaches adding additional support surfaces such as 26a and 30 to the main support area to be able to provide additional therapy to those areas of the body. As shown in figure 13 support surface 26a is added to support the head for manipulating the neck of the user. This head support surface would have a pad or pillow that has a position relationship to the uppermost position of the reciprocating massager in the main support and is movable so as the user can select a location of the pillow. It would have been obvious to one of ordinary skill in the art to further modify Lee to include an additional head support surface as taught by Splane to separately support the head for manipulating the head of the patient.

**Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 1 above, and further in view of Kume et al.**

Kume teaches another massaging device that includes a physiological data measuring means 110 including blood pressure, paragraph 0077, in order to give a suitable massage according to the degree of stiffness or relaxation of the person to be massaged. It would have been obvious to one of ordinary skill in the art to further modify Lee to control the operation of

the massager based on the blood pressure as taught by Kume to better control the operation to achieve a more relaxed user.

**Claims 8, 9, 13, 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lee '732 in view of Park '551.**

To any extent the claims are understood and appear to be supported by a clear and complete disclosure the following appears to be appropriate.

Lee teaches the body is in the form of a bed for the patient to lie on. Park teaches a support with a slot for containing the heat-transmitter in the form of a bed shaped support. Park also teaches that the body support can also be in the form of a conventional chair in figure 9. The chair would have a seat and foot rest as a second and third support surface for supporting the thighs and feet of the patient. The seat and foot rest has an angular movement relative to the first back support to permit the user to rest comfortably. It would have been obvious to one of ordinary skill in the art to modify Lee to shape the device to be a conventional chair with a seat and foot rest as taught by Park to provide a second support surface that is angularly adjustable to permit the user to rest comfortably.

**Claims 10-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 8 above, and further in view of Vianello et al.**

Vianello also teaches a massaging machine that has three support surfaces that are adjustable relative to each other and includes an electric actuator to perform the same. It would have been obvious to one of ordinary skill in the art to further modify Lee to use an electric actuator to achieve the different relative positions of the three support surfaces.

**Claims 15-18, 20-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lee '732 in view of Hotas.**

Hotas teaches using raised supports 61 disposed on the support surface so as to align a user on said support surface. It would have been obvious to one of ordinary skill in the art to modify Lee to include raised supports on the support surface as taught by Hotas to properly position the user on the support surface. It also would have been obvious to one of ordinary skill in the art to further modify Lee to pad the raised supports 61 to provide comfort to the user.

Regarding claim 17, the raised supports 61 can be cushioned with either foam padding inflatable bladders. Such are conventional expedients well known to one of ordinary skill in the art.

**Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 15 above, and further in view of Splane, JR.**

It would have been obvious to one of ordinary skill in the art to further modify Lee to include a belt as taught by Splane 46 to help support and position the user on the support surface.

**Claims 23-26 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Lee '732.**

Lee figure 5 teaches everything claimed including a compliant structure or actuator 11, 12 between the module "MEDICATOR" and saddle 20 to comply with the shape of the human spine.

**Claim 27 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lee '732.**

Regarding claim 27, Lee already teaches a spring actuator between the module and the saddle. There is no unobviousness to exactly what type of spring is used. An air spring would



have been an obvious equivalent alternative means for performing the same function. It would have been obvious to one of ordinary skill in the art to modify Lee and use any conventional type of spring to bias the module into engagement with the back of the user.

**Claims 28-32, 34-36 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Kim '601.**

Kim teaches a plurality of heat transmitters disposed in a module 110 and an actuator 460 that is adjustable to vary the force applied to the back of the user.

**Claim 33 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kim '601 in view of Lee '732.**

Lee teaches adding springs to bias the heat-transmitters into engagement with the back of the user to accommodate the different shapes of the back. It would have been obvious to one of ordinary skill in the art to modify Kim to add springs as taught by Lee to bias the heat-transmitters into engagement with the back of the user.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Danton DeMille whose telephone number is (571) 272-4974. The examiner can normally be reached on M-F from 8:30 to 6:00 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Justine Yu, can be reached on (571) 272-4835. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.


Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

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2 April 2007

  
Danton DeMille  
Primary Examiner  
Art Unit 3771